

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SIGNATURE BANK,

Plaintiff,

-against-

AHAVA FOOD CORP. d/b/a NORTH  
COUNTRY CHEESE CORP., et al.,

Defendants.  
-----x

:  
: REPORT & RECOMMENDATION

:  
: 08 Civ. 3893 (NRB) (MHD)  
:

TO THE HONORABLE NAOMI R. BUCHWALD, U.S.D.J.:

3/27/09

In January of this year, plaintiff Signature Bank moved by order to show cause for various forms of relief pertaining to assets owned by defendant Ahava Food Corporation and in the control of co-defendant Ahava of California. The Bank sought the right to inspect the physical assets of the company and to review its books and records and, most pertinently, it asked for an order authorizing the seizure of the assets in the wake of the Bank's purchase of them on July 9, 2008 at a secured party sale.

In the wake of rulings by the court and agreements among the parties, the only portion of the motion that involved a live dispute was the request for an order of seizure. Because of recent representations by counsel for the Bank, however, that it was in the process of selling those assets to an unidentified non-party, we withheld action on the pending application.

On March 25, 2009 we conducted a telephone status conference at which counsel for the Bank confirmed that it had recently closed on a sale of the assets in question to an entity known as Toobro NY LLC. On the basis of that representation it is apparent that the motion for an order of seizure by the Bank is now moot, and accordingly we recommend that it be denied.

Pursuant to Rule 72 of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from this date to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of the Court and served on all adversaries, with extra copies to be delivered to the chambers of the Honorable Naomi R. Buchwald, Room 2270, and to the chambers of the undersigned, Room 1670, 500 Pearl Street, New York, New York 10007. Failure to file timely objections may constitute a waiver of those objections both in the District Court and on later appeal to the United States Court of Appeals. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(d); Thomas v. Arn, 470 U.S. 140, 150-52 (1985); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

Dated: New York, New York  
March 27, 2009



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MICHAEL H. DOLINGER  
UNITED STATES MAGISTRATE JUDGE

Copies of the foregoing Report and Recommendation have been sent today to:

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